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5.1 Purpose of Dispositional Hearings

Dispositional hearings are “conducted to determine what measures the court will take concerning the juvenile who is properly found within the jurisdiction of the court, and, when applicable, against any adult.” MCR 5.943(A).

MCL 712A.2b(c); MSA 27.3178(598.2b)(c), states that, after the factfinding hearing, “if . . . the court finds the accusation to be true, the court may dispose of the case under [MCL 712A.18; MSA 27.3178(598.18)].” MCL 712A.18(1); MSA 27.3178(598.18)(1), in turn, provides that if the court finds that the juvenile does not come within the jurisdiction of the court, the court must dismiss the petition (or citation). If, however, the court finds that the juvenile is within the jurisdiction of the court, the court may order any of several types of disposition “appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained.”* *Id.* See also MCL 257.44a; MSA 9.1844(1) (“probate court disposition” defined).

*See also Chapter 6 for a discussion of restitution.

*For a detailed discussion of the procedural requirements for dispositional hearings, see Miller, *Juvenile Justice Benchbook: Delinquency & Criminal Proceedings* (MJJ, 1998), Chapter 12.

5.2 Required Procedures at Dispositional Hearings*

MCR 5.943(B) provides that the interval, if any, between a plea of admission or trial and a disposition shall be within the discretion of the court. If the juvenile is detained, however, the interval may be no more than 35 days. This deadline may be extended for good cause. In most cases involving a traffic offense by a juvenile, the factfinding hearing and the dispositional hearing will be conducted as a single hearing.

MCR 5.943(C)(1)–(2) outline the basic evidentiary and procedural rules applicable to dispositional hearings. These rules state:

“(1) At the dispositional hearing all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible at trial.

“(2) The juvenile, or the juvenile’s attorney, and the petitioner shall be afforded an opportunity to examine and controvert written reports so received and, in the court’s discretion, may be allowed to cross-examine individuals making reports when such individuals are reasonably available.”

5.3 Special Requirements Under Juvenile Crime Victim’s Rights Act

The Juvenile Crime Victim’s Rights Act, MCL 780.781 et seq.; MSA 28.1287(781) et seq., gives victims the right to make impact statements and to receive notice of the dispositions that are ordered. If a disposition report is prepared by a probation officer, the victim shall be permitted to submit a written or oral impact statement to the person preparing the report for use by that person in preparing the report. If the victim requests, a copy of his or her impact statement shall be included in the disposition report. MCL 780.792; MSA 28.1287(792).

The victim shall be informed that his or her impact statement may include, but shall not be limited to, the following:

“(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

“(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

“(c) An opinion of the need for, and extent of, restitution, and whether the victim has applied for or received compensation for loss or damage.

“(d) The victim’s recommendation for an appropriate disposition.”

MCL 780.791(3)(a)–(d); MSA 28.1287(791)(3)(a)–(d).

MCL 780.793(1); MSA 28.1287(793)(1), in turn, provides that the victim shall have the right to appear and make an oral impact statement at the disposition of the juvenile.

If requested by the victim, the prosecuting attorney or the court shall notify the victim of the disposition not more than 14 days after it is made. MCL 780.793(2); MSA 28.1287(793)(2).

5.4 Limited Dispositional Options For Cases on Consent Calendar

MCR 5.932(B)(2) states that “[i]f, after hearing, the court finds the accusation is true, it may dispose of the matter pursuant to MCL 712A.18; MSA 27.3178(598.18), except that the juvenile shall not be removed from the custody of the parent.”

If the juvenile has violated the Michigan Vehicle Code, the court must fulfill the reporting requirements of MCL 712A.2b(d); MSA 27.3178(598.2b)(d), and MCL 257.732; MSA 9.2432. MCR 5.932(B)(2).*

*See Section 7.1 for these requirements.

5.5 Dispositional Options

MCL 712A.18(1); MSA 27.3178(598.18)(1), provides that the court may order any of several types of disposition listed in §18 “appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained.” The court’s dispositional options are set out in the succeeding subsections.

A. Warning to Juvenile and Dismissal of Petition

The court may warn the juvenile or the juvenile’s parents, guardian, or custodian and dismiss the petition. MCL 712A.18(1)(a); MSA 27.3178(598.18)(1)(a).

However, if appropriate, the court must order the juvenile or the juvenile’s parents to make restitution pursuant to the Juvenile Code and the Juvenile Crime Victim’s Rights Act. MCL 712A.18(7); MSA 27.3178(598.18)(7).*

*See Chapter 6.

Also, if the court dismisses the petition at this stage of the proceedings, the offense will be recorded both on the juvenile’s delinquency record and on the juvenile’s driving record maintained by the Secretary of State.*

*See Sections 7.2 and 7.4 for discussion of expunging and setting aside records of criminal traffic violations.

B. In-Home Probation

The court may place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile. MCL 712A.18(1)(b); MSA 27.3178(598.18)(1)(b).

As used in this subsection, "related" means being a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt by blood, marriage, or adoption. The court shall order the terms and conditions of probation or supervision, including reasonable rules for the conduct of the parents, guardian, or custodian, if any, as the court deems necessary for the physical, mental, or moral well-being and behavior of the juvenile. MCL 712A.18(1)(b); MSA 27.3178(598.18)(1)(b).

C. Placement in Foster Care

The court may place the juvenile in a suitable foster care home subject to the court's supervision. MCL 712A.18(1)(c); MSA 27.3178(598.18)(1)(c).

D. Commitment to a Private Institution or Agency

The court may place the juvenile in or commit the juvenile to a private institution or agency approved or licensed by the Department of Consumer and Industry Services for the care of juveniles of similar age, sex, and characteristics. MCL 712A.18(1)(d); MSA 27.3178(598.18)(1)(d).

E. Commitment to a Public Institution or Agency

The court may commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. MCL 712A.18(1)(e); MSA 27.3178(598.18)(1)(e).

F. Orders for Health Care

The court may provide the juvenile with medical, dental, surgical, or other health care, in a local hospital if available, or elsewhere, maintaining as much as possible a local physician-patient relationship, and with clothing and other incidental items as the court considers necessary. MCL 712A.18(1)(f); MSA 27.3178(598.18)(1)(f).

G. Orders to Parents to Refrain From Conduct Harmful to Juvenile

The court may order the parents, guardian, custodian, or any other person to refrain from continuing conduct that the court determines has caused or tended to cause the juvenile to come within or to remain under the court's jurisdiction, or that obstructs placement or commitment of the juvenile pursuant to a dispositional order. MCL 712A.18(1)(g); MSA 27.3178(598.18)(1)(g).

An order directed to a parent or other person shall not be binding unless the parent has been given an opportunity for a hearing pursuant to the issuance of a summons or notice as provided in §§12 and 13 of the Juvenile Code. A certified copy of the order must be personally served on the parent or other person. MCL 712A.18(4); MSA 27.3178(598.18)(4).

Note: It may be very helpful for the judge or referee conducting the dispositional hearing to obtain a waiver on the record of these service requirements.

H. Appointment of Guardian for Juvenile

The court may appoint a guardian under MCL 700.424; MSA 27.5424, pursuant to a petition filed with the court by a person interested in the welfare of the juvenile. If the court appoints a guardian pursuant to this subdivision, it may enter an order dismissing the petition under this chapter. MCL 712A.18(1)(h); MSA 27.3178(598.18)(1)(h).

I. Order for Community Service

The court may order the juvenile to engage in community service. MCL 712A.18(1)(i); MSA 27.3178(598.18)(1)(i).

J. Order to Pay a Civil Fine

If the court finds that the juvenile has violated a municipal ordinance or a state or federal law, the court may order the juvenile to pay a civil fine in the amount of the civil or penal fine provided by the ordinance or law. MCL 712A.18(1)(j); MSA 27.3178(598.18)(1)(j).

Money collected from such fines must be distributed as provided in §29 of the Juvenile Code.*

*See Section 5.8, below.

K. Order for Court Costs

The court may order the juvenile to pay court costs. MCL 712A.18(1)(k); MSA 27.3178(598.18)(1)(k).

L. Order to Parents to Participate in Treatment

The court may order the juvenile's parent or guardian to personally participate in treatment reasonably available in the parent's or guardian's location. MCL 712A.18(1)(l); MSA 27.3178(598.18)(1)(l).

An order directed to a parent or other person shall not be binding unless the parent has been given an opportunity for a hearing pursuant to the issuance of a summons or notice as provided in §§12 and 13 of the Juvenile Code. A certified copy of the order must be personally served on the parent or other person. MCL 712A.18(4); MSA 27.3178(598.18)(4).

Note: It may be very helpful for the judge or referee conducting the dispositional hearing to obtain a waiver on the record of these service requirements.

M. Placement of Juvenile in Juvenile Boot Camp

The court may place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the Family Independence Agency under the Juvenile Boot Camp Act. MCL 712A.18(1)(m); MSA 27.3178(598.18)(1)(m).

5.6 Restricting Juvenile's Driving Privileges as a Condition of Probation

MCL 712A.2b(e); MSA 27.3178(598.2b)(e), expressly allows the Family Division to restrict the juvenile's driving privileges as a term or condition of probation. If the court suspends the juvenile's driving privileges or imposes probationary terms and conditions, the court must include the suspension or terms and conditions in the abstract that it sends to the Secretary of State pursuant to MCL 257.732; MSA 9.2432.

5.7 Notices of Dispositions to the Secretary of State

MCL 712A.2b(d); MSA 27.3178(598.2b)(d), and MCL 257.732; MSA 9.2432, require the clerk of the Family Division to forward an abstract of the court record to the Secretary of State in certain cases following disposition.*

*See Section 7.1 for a detailed description of this requirement.

5.8 Allocation of Money Collected From Payment of Fines, Costs, Restitution, Assessments, or Other Payments

If a child is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same order of disposition, money collected from that child, or his or her parent or parents, for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in MCL 712A.29; MSA 27.3178(598.29).

Note that the statutory scheme explained in this section applies only to traffic offenses adjudicated in the Family Division of Circuit Court. The fines, costs, and assessments collected following the adjudication of a civil infraction in district or municipal court are allocated pursuant to MCL 257.909; MSA 9.2609 (fines for violations of the Michigan Vehicle Code or other state statute), MCL 600.8379; MSA 27A.8379 (fines for violations of local ordinances substantially corresponding to a provision of the Michigan Vehicle Code), MCL 257.907(4); MSA 9.2607(4) (costs), and MCL 257.907(14); MSA 9.2607(14), and MCL 257.629e; MSA 9.2329(5) (assessments).

A. Payments to Victim

MCL 712A.29(2); MSA 27.3178(598.29)(2), states that, except as otherwise provided below, if a child is subject to payment of victim payments and any combination of other fines, costs, assessments, or other payments, 50 percent of the money collected from that child, or his or her parent or parents, shall be applied to payment of the victim payments, and the balance shall be applied to payment of fines, costs, and assessments or other payments. If fines, costs, or other assessments or payments remain unpaid after all victim payments have been paid, additional money collected shall be applied to payment of those fines, costs, or other assessments or payments. If victim payments remain unpaid after all fines, costs, or other assessments or payments have been paid, additional money collected shall be applied toward payment of those victim payments.

MCL 712A.29(7); MSA 27.3178(598.29)(7), defines victim payments as restitution paid to the victim or the victim's estate, but not to a person who reimbursed the victim or the victim's estate for the loss. Payment of the Crime Victims Rights Assessment is also excluded from the definition of victim payments.

B. Allocation of Costs, Fines, and Assessments

In cases involving orders of disposition for offenses that would be violations of state law if committed by an adult, money allocated under MCL 712A.29(2); MSA 27.3178(598.29)(2), for payment of costs, fines, and assessments or payments other than victim payments shall be applied in the following descending order of priority:

- (a) payment of costs, then
- (b) payment of fines, then
- (c) payment of assessments and other payments.

MCL 712A.29(3)(a)–(c); MSA 27.3178(598.29)(3)(a)–(c).

MCL 712A.29(5); MSA 27.3178(598.29)(5), states that money allocated for payment of costs under Subsection (3) shall be paid to the county treasurer for deposit in the general fund of the county. Money allocated for payment of fines under Subsection (3) shall be paid to the county treasurer to be used for library purposes as provided by law.

In cases involving orders of disposition for offenses that would be violations of local ordinances if committed by an adult, money allocated under MCL 712A.29(2); MSA 27.3178(598.29)(2), for payment of costs, fines, and assessments or payments other than victim payments shall be applied in the following descending order of priority:

- (a) payment of fines and costs, then
- (b) payment of assessments and other payments.

MCL 712A.29(4)(a)–(b); MSA 27.3178(598.29)(4)(a)–(b).

MCL 712A.29(6); MSA 27.3178(598.29)(6), states that one-third of the money allocated for payment of fines and costs under Subsection (4) shall be paid to the treasurer of the political subdivision whose ordinance was violated, and two-thirds of that money shall be paid to the county treasurer for deposit in the general fund of the county.

5.9 Allocation of Driver's License Clearance Fees

If a juvenile is required to pay a driver's license clearance fee,* the court must transfer 60% of each fee received to the Secretary of State on a monthly basis. MCL 257.321a(11); MSA 9.2021(1)(11).

*See Sections 2.8–2.9.